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of the State of California
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5 Attorneys for Complainant

6
7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11
12 In the Matter of the Accusation) NO. D-3927
Against:)
13 Paul V. Palmer, Jr., M.D.) STIPULATION
14 550 Washington Street, Suite 331)
San Diego, California 92103) AND DECISION
15 Physician's and Surgeon's)
16 Certificate No. A 24145)
17 Respondent.)

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19 In the interests of a prompt and speedy settlement of
20 this matter, consistent with the public interest and the
21 responsibilities of the Division of Medical Quality, Medical
22 Board of California, Department of Consumer Affairs, State of
23 California, the parties submit this Stipulation to the
24 Medical Board of California for its approval and adoption as
25 the final disposition of the First Amended Accusation, which
26 replaced the prior Accusation.

27 The parties stipulate the following is true:

1 1. A First Amended Accusation, No. D-3927, is
2 currently pending against Paul V. Palmer, M.D., before the
3 Medical Board of California ("Board").

4 2. Respondent is fully aware of the charges and
5 allegations contained in the First Amended Accusation No. D-
6 3927 on file with the Board, and respondent has been fully
7 advised with regard to his rights in this matter.

8 3. Respondent is presently represented by William R.
9 Winship, Esq., in San Diego, California.

10 4. Respondent is fully aware of the right to a
11 hearing on the charges and allegations contained in the First
12 Amended Accusation, right to reconsideration, appeal, and all
13 other rights which are accorded pursuant to the
14 Administrative Procedure Act.

15 5. Respondent hereby fully and voluntarily waives
16 the right to a hearing, reconsideration, appeal, and any and
17 all other rights which are accorded by the Administrative
18 Procedure Act.

19 6. Respondent admits that each and every allegation
20 of the First Amended Accusation is true, and that cause
21 exists thereby to impose discipline upon his license. This
22 admission is made for the purpose of this Stipulation only,
23 and it may not be used for any other purpose or in any other
24 proceeding.

25 WHEREFORE, IT IS STIPULATED the Board may, without
26 further notice of formal proceeding, issue and enter the
27 following decision:

1 A. Physician's and Surgeon's Certificate No. A 24145
2 issued to respondent Paul V. Palmer, Jr., M.D., is revoked,
3 provided, however, that the revocation is stayed and
4 respondent is placed on probation for five years upon the
5 following terms and conditions:

6 1. Within 60 days of the effective date of this
7 decision, respondent shall take and pass an oral exam, in
8 respondent's specialty of anesthesia (not including
9 obstetric, pediatric, or cardiology patients) administered by
10 the Division or its designee. If respondent fails this
11 examination, respondent must take and pass a re-examination
12 consisting of a written as well as an oral examination. The
13 waiting period between the first and second examinations
14 shall be 30 days and the waiting period between subsequent
15 examinations shall be three months until success is achieved.
16 The Division shall pay the cost of the first examination and
17 respondent shall pay the cost of any subsequent
18 re-examinations.

19 Respondent shall not practice medicine until
20 respondent has passed the required examination and has been
21 so notified by the Division in writing. Failure to pass the
22 required examination no later than 100 days prior to the
23 termination date of probation shall constitute a violation of
24 probation.

25 2. If respondent fails the initial oral clinical
26 examination as described above in condition #1, respondent
27 shall submit to the Division for its prior approval, an

1 intensive clinical training program. The exact number of
2 hours and the specific content of the program shall be
3 determined by the Division or its designee. Respondent shall
4 successfully complete the training program. Respondent may
5 not retake the oral clinical examination until after
6 completing the clinical training program.

7 If respondent is required to complete this
8 clinical training program, he shall not otherwise practice
9 medicine except as required by the clinical training program.

10 3. Within 30 days of the effective date of this
11 decision, respondent shall submit to the Division for its
12 prior approval a plan of practice in which respondent's
13 practice, for the first year of probation, shall be monitored
14 by another physician in respondent's field of practice, who
15 shall provide periodic reports to the Division. If the
16 monitor resigns or is no longer available, respondent shall,
17 within 15 days, move to have a new monitor appointed, through
18 nomination by respondent and approval by the Division.

19 4. Respondent shall obey all federal, state, and
20 local laws, and all rules governing the practice of medicine
21 in California.

22 5. Respondent shall submit quarterly declarations
23 under penalty of perjury on forms provided by the Division,
24 stating whether there has been compliance with all the
25 conditions of probation.

26 6. Respondent shall comply with the Division's
27 probation surveillance program.

1 7. Respondent shall appear in person for interviews
2 with the Division's medical consultant upon request at
3 various intervals and with reasonable notice.

4 8. The period of probation shall not run during the
5 time respondent is residing or practicing outside the
6 jurisdiction of California. If, during probation, respondent
7 moves out of the jurisdiction of California to reside or
8 practice elsewhere, respondent is required to immediately
9 notify the Division, in writing, of the date of departure,
10 and the date of return, if any.

11 9. Upon successful completion of probation,
12 respondent's certificate will be fully restored.

13 10. If respondent violates probation in any respect,
14 the Division, after giving respondent notice and the
15 opportunity to be heard, may revoke probation and carry out
16 the disciplinary order that was stayed. If an accusation or
17 petition to revoke probation is filed against respondent
18 during probation, the Division shall have continuing
19 jurisdiction until the matter is final, and the period of
20 probation shall be extended until the matter is final.

21 B. The within Stipulation and Decision shall be
22 subject to the approval of the Division of Medical Quality of
23 the Medical Board. If the Division fails to approve this

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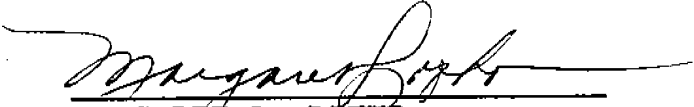
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1 Stipulation, it shall be of no force or effect for either
2 party.

3 DATED: 8-30-90

4 JOHN K. VAN DE KAMP
5 Deputy Attorney General

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7 MARGARET A. LAFKO
8 Deputy Attorney General

9 Attorneys for Complainant

10 DATED: 3-14-90

11 
12 WILLIAM R. WINSHIP, ESQ.
13 591 Camino de la Reina, Suite 300
14 San Diego, California 92108

15 Attorney for Respondent

16 DATED: 3-14-90

17 
18 PAUL V. PALMER, JR., M.D.

19 Respondent
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2 The attached Stipulation and Decision is hereby
3 adopted by the Division of Medical Quality, Medical Board of
4 California, Department of Consumer Affairs, State of
5 California, as its Decision in the above-entitled matter.

6 This Decision shall become effective on the 16th
7 day of January, 1991.

8 IT IS SO ORDERED this 16th day of January, 1991.

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10
11 *Theresa Claassen*

12 Division of Medical Quality
13 Medical Board of California
14 State of California
15 THERESA CLAASSEN, Secretary-Treasurer
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7 BEFORE THE DIVISION OF MEDICAL QUALITY
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)	NO. D-3927
Against:)	
13 PAUL V. PALMER, JR., M.D.)	FIRST AMENDED
14 550 Washington, Suite 331)	ACCUSATION
San Diego, California 92103)	
15 Physician and Surgeon)	
16 Certificate No. A 24145)	
17 Respondent.)	

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19 Kenneth J. Wagstaff alleges:

20 1. He is the Executive Director of the Board of
21 Medical Quality Assurance and makes this accusation in his
22 official capacity.

23 2. On March 9, 1971, respondent was issued Physician
24 and Surgeon Certificate No. A 24145. At all times relevant
25 herein, said certificate was current and in good standing, and
26 is in current status at the present time.

27 3. This accusation is made in reference to the

1 following sections of the Business and Professions Code (all
2 references hereinafter are to this Code):

3 A. Sections 2220 and 2234 provide, in part, that
4 the Division may take action against all persons guilty of
5 unprofessional conduct.

6 B. Section 2227 provides, among other things, that
7 a licensee whose matter has been heard and who is found guilty,
8 may have his license revoked, suspended, or placed on probation.

9 C. Section 2234 defines unprofessional conduct to
10 include gross negligence and incompetence.

11 4. Patient Ellen F.

12 A. In 1971 Ellen F. had a total laryngectomy
13 resulting in a permanent tracheostomy. On or about February 5,
14 1985, Ellen F. was admitted to Mercy Hospital for surgery, i.e.,
15 total hip arthroplasty to be performed on February 6, 1985.
16 Respondent met with Ellen F. for pre-anesthesia screening on
17 February 5, 1985 and was the anesthesiologist for her surgery on
18 February 6, 1985. In providing anesthetic care to his patient
19 Ellen F., respondent committed acts of gross negligence and
20 incompetence and has subjected his certificate to discipline as
21 follows:

22 B. Respondent failed to obtain an adequate history
23 of the patient's past surgical procedures during his
24 consultation with her on February 5, 1985. There was obvious
25 physical evidence that the patient had undergone neck surgery
26 involving her respiratory tract (the tracheostomy). This
27 failure represents gross negligence and is a violation of

1 section 2234(b).

2 C. The history of this laryngectomy surgery was
3 available to respondent in hospital records accompanying the
4 patient when she was brought to the operating room on February
5 6, 1985, but respondent failed to examine them thoroughly enough
6 to ascertain it. Without doing so, respondent made the
7 erroneous assumption that the patient could and was breathing
8 through her oropharynx, leading to respondent's miscalculation
9 that he could utilize an orotracheal tube. This failure
10 represents gross negligence and is a violation of §2334(b).

11 D. Respondent failed to perform an adequate
12 pre-anesthesia physical examination. Although he observed a
13 hole in the patient's neck, he did not ascertain by simple
14 examination the obviously pertinent fact that the patient was
15 breathing through the "hole", and that this would be a vital
16 consideration in the subsequent conduct of her anesthesia. This
17 failure represents gross negligence and is a violation of
18 §2234(b).

19 E. After initial induction of anesthesia,
20 respondent attempted to ventilate the patient via a face mask,
21 failing to recognize through physical signs that the lungs were
22 not being ventilated. This represents incompetence and is a
23 violation of §2234(d).

24 F. (1) Upon laryngoscopy, respondent failed to see
25 normal laryngeal anatomy. Instead of using standard techniques
26 for performing a "blind" orotracheal intubation, respondent
27 passed a tube where he thought the vocal cords should be. Even

1 in the presence of normal laryngeal anatomy, this would
2 represent an extremely haphazard procedure. Following this,
3 respondent depended upon the observation of a nurse, who stated
4 that she had seen the tube through the tracheostomy, as
5 confirmation of a successful intubation, even though respondent
6 had previously considered the hole in the neck to be too small
7 to be functional, and thus could hardly afford to be an adequate
8 observation port; it should further have occurred to him that if
9 the hole was large enough to observe passage of a tube, it would
10 also have been large enough to allow noticeable egress of gases
11 during attempted ventilation with a face mask.

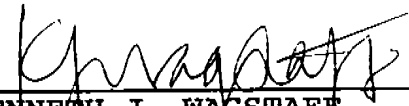
12 F. (2) Subsequent to passage of the tube, respondent
13 misinterpreted stethoscopic chest sounds as indicating adequate
14 pulmonary exchange and continued attempts at ventilation through
15 the tube which was placed in the esophagus. With serious
16 bradycardia and progressing cyanosis evident in spite of what he
17 interpreted as pulmonary ventilation, he removed the oral tube
18 and re-instituted attempts at mask ventilation, still failing to
19 recognize its futility until the surgeon suggested intubation
20 through the tracheostomy.

21 F. (3) Respondent's intubation technique in this
22 instance and his inability to recognize and diagnose the absence
23 of pulmonary ventilation as described in paragraphs F(1) and
24 F(2) represents incompetence and is a violation of §2234(d).

25 WHEREFORE, complainant prays a hearing be held on the
26 matters alleged and, after hearing and according to proof, that
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1 the Division issued an order revoking or suspending respondent's
2 certificate or taking such other action as it deems just.

3 DATED: June 7, 1989

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6 KENNETH J. WAGSTAFF
7 Executive Director
8 Board of Medical Quality Assurance
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Complainant